

# INSTRUCTIONS

## Generic Civil Responsive Motion and Affidavit

Forms you may need for this process:

- Responsive Notice of Motion and Motion (CIV702);
- Affidavit in Support of Motion (CIV703);
- Affidavit of Service by Mail (SOP104);
- Affidavit of Personal Service (SOP102).

### What You Need to Do

1. Complete the court forms, following all of the steps in these instructions.
2. Verify the hearing date (found on the other party's notice of motion and motion) by contacting Court Administration in the county where the civil case is located.
3. File your forms (electronically or at the courthouse), and pay the motion filing fee (or ask for a fee waiver if you cannot afford to pay the fee).
4. Appear at the hearing. Each "step" here is described in more detail below.

### Important Notices and Resources

The court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions, but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Got a question about court forms or instructions?

- Visit [www.MNCourts.gov/SelfHelp](http://www.MNCourts.gov/SelfHelp)
- Call the MN Courts Self Help Center at (651) 435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit [www.MNCourts.gov/Find-a-Lawyer.aspx](http://www.MNCourts.gov/Find-a-Lawyer.aspx)

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.

## General Information About the Generic Civil Responsive Motion Packet

The information contained in this document is not intended as legal advice but as a general guide to you to explain the legal process. If you do not understand any of these procedures, talk to an attorney. Court staff cannot give legal advice.

A **generic responsive motion** is a way to respond to the other party's motion filed in a civil case that is already open. In very simple terms, the responsive motion is where you state **what** you want the court to order. Along with every motion, you need an **affidavit**. The affidavit is where you state **why** the court should give you what you have asked for.

You may be able to use this packet **IF**:

- A civil case has already started and you have a case number;
- The other party has served you with a motion;
- You want to ask the court to deny the other party's motion, and/or do something within the case; and
- The court does not publish a specific form for the request you want to make.

**IMPORTANT:** It is strongly recommended that you [get legal advice](#). If you do not know what you should write in your responsive motion, or want the responsive motion reviewed by an attorney.

### Step 1

#### Fill Out *Responsive Notice of Motion and Motion* (CIV702)

#### Section A – The Caption

The top part of the first page is where you will find the case caption. It looks like this:

<b>State of Minnesota</b>		<b>1</b>	<b>District Court</b>	
County _____			Judicial District: _____	
			Court File Number: _____	
			Case Type: _____	Civil
Plaintiff _____		<b>2</b>	<b>Responsive Notice of Motion and Motion</b>	
vs. _____				
Defendant _____				

You should be able to find the information you need to fill out the caption on the other party's motion that you received. If the information is not found on the document, then you will need to look in your court file.

- Some limited case records can be viewed online at [www.mncourts.gov/publicaccess](http://www.mncourts.gov/publicaccess).
- If you cannot view your case online, you may need to go to the courthouse in the county where your case is located to view your court file.

1. At the top of the page, write in the following information:

- The **county** where the case is located;
- The **judicial district** number (each county is located in one of ten [judicial districts](#));
- Your **court file number** (this usually starts with a two-digit number, followed by letters and numbers. For example, *15-CV-17-0001*); and
- The **case type**. Look on other documents in your court file if you are not sure what the case type is.

2. Write in the name of each **plaintiff** and the name of each **defendant** as it is found on the court document mentioned earlier. If your name is incorrect in any way, you can add “aka” (Also Known As) and then your correct name.

## Section B: The Notice

TO:		<div style="border: 1px solid black; width: 40px; height: 40px; text-align: center; line-height: 40px; margin: 0 auto;">3</div>	
<b>NOTICE</b>			
I will ask the Court for an Order at a hearing scheduled as follows:			
Date:		Time:	<div style="border: 1px solid black; width: 40px; height: 40px; text-align: center; line-height: 40px; margin: 0 auto;">4</div>
Name of Courthouse:		Judicial Officer (if known):	
Street Address:		City:	

3. After the word “TO,” print the name and address of each party except yourself. If any of the other parties is represented by an attorney, then you should include that party's attorney's name and address. For example: “Jane Doe, attorney for Jay Vang, 111 Main St., St. Paul, MN 55102.”

4. Fill in this section (look on the other party's motion to find the information). The hearing for this responsive motion should be on the same day and at the same time as the other party's motion, unless the court grants permission to use another date.

## Section C: The Motion

		<b>C</b>
	<b>MOTION</b>	
<b>5</b>	I am asking the court for an Order as follows:	
	1. <input type="checkbox"/> Denying the other party's request for:	<b>6</b>
	2. <b>7</b>	

5. In the first paragraph, check the box **only if you disagree with what the other party asks for in their motion**.

6. Next, ***if you checked the box***, then briefly summarize what the other party has asked for in their motion. If you run out of room, you can continue your answer on another piece of paper (please do not write on the back or in the margins of your responsive motion).

7. *If you have other requests you would like to make, then* in the numbered paragraphs, state only **what** you want the court to order at the hearing (do not state **why** in this section).

## Section D: The Signature Block

On page 2 of the *Responsive Notice of Motion and Motion*, please read the **Verification and Acknowledgments** carefully. There can be serious consequences if you do not have a good reason for using the *Responsive Notice of Motion and Motion*.

or filing this document for an improper purpose, the Court can order me to pay money to the other party, including the reasonable expenses incurred by the other party because of the serving or filing of this document, court costs and reasonable attorney's fees.		<b>D</b>
Date _____	<b>8</b>	Signature _____
		Printed Name: _____
		Address: _____
		City, State, Zip: _____

8. After you have filled out the *Responsive Notice of Motion and Motion*, then you can date and sign the form. Then print your personal contact information below your signature.

**Step 2**

**Fill out the *Affidavit in Support of Motion* (CIV703)**

## Section E: The Caption

State of Minnesota		District Court	
County	Judicial District:	Court File Number:	Case Type:
			Civil
Plaintiff		Affidavit in Support of Responsive Motion	
Defendant			

**E**

Fill out the caption just like you did in Section A above.

## Section F: The Statement of Facts

In the *Affidavit in Support of Responsive Motion*, you are supposed to write down facts that support the requests you made in your responsive motion. It is where you explain *why* you are asking the court to do the things you asked for in the *Responsive Notice of Motion and Motion*. Later on, you will sign the *Affidavit in Support of Responsive Motion* under penalty of perjury. This is like being under oath. It means you should not write anything that you know is not true.

9	My name is _____ . The following facts support my responsive motion: _____	F
	10	

9. Write your name.

10. Write down the information you want the court to know. This section is your “statement of facts.” If you run out of room, then add more paper. Do not write on the back of the page or in the margins.

If you want to include an attachment that supports a statement you make, then it is good practice to label your attachment something like “Attachment A” or “Exhibit 1.” Then, next to the statement in your *Affidavit* that talks about the attachment, you can write something like “See *Attachment A*” or “See *Exhibit 1*.” For example: “It cost \$800 to fix my car. See *Exhibit 1*.” And Exhibit 1 would be the bill from the car repair shop.

## Section G: The Signature Block / Penalty of Perjury

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.		G
Dated: _____	Signature _____	
County and State where signed _____	Name: _____	11
	Address: _____	
	City/State/Zip: _____	
	Telephone: _____	
	E-mail address: _____	

11. When you sign your *Affidavit in Support of Responsive Motion*, you are signing under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. By signing under penalty of perjury, you are stating that the information in your *Affidavit* is true to the best of your knowledge.

Date and sign the *Affidavit*. Then write the names of the county and state you are in when you signed it, and print your personal contact information below your signature.

### Step 3

#### Make Copies

You will need to make one copy of the *Responsive Notice of Motion* and the *Affidavit in Support of Responsive Motion* (plus any attachments) for each party, including yourself. Be sure to bring your copy with you to court when you go to the hearing.

### Step 4

#### Serve the Other Party

#### Overview

The other party must receive complete copies of all documents you have prepared for the hearing. This is called "service of process." The papers can be served personally (handed to the other party), or by mail. Service cannot be done on legal holidays.

**If the other party is represented by an attorney, serve the other party's attorney, instead of the party directly.**

#### Who Can Serve

The forms you have prepared can be served by any of the following:

- The sheriff;
- Another adult; or
- You.

#### Personal Service

The server hands to the other party **one copy** of the completed *Responsive Notice of Motion and Motion, Affidavit in Support of Responsive Motion*, and any and all attachments.

- **Deadline:** Your response must be handed to the other party at least 5 days before the hearing, or 10 days before the hearing if you are raising new issues in your responsive motion.

#### Service by Mail

The server places **one copy** of your completed forms and attachments in an envelope addressed to the other party. Your address should be in the upper left hand corner of the envelope, even if you won't be the person mailing the envelope. The server must mail the envelope containing the forms to the other party by first class U.S. mail.

- **Deadline:** Your response must be mailed to the other party at least 8 days before the hearing, or 13 days before the hearing if you are raising new issues in your responsive motion.

**If there is more than one plaintiff or more than one defendant, please note that ALL of the other parties must be served.**

## Step 5

### ***Affidavit of Service (Proving Other Parties Were Served)***

*After* the paperwork is served on all of the other parties (*not before*) either personally or by mail, the server must fill out the *Affidavit of Service* form for each party who is served. This form serves as your proof for the court that papers were served on the other party.

**IF THE PAPERS WERE SERVED PERSONALLY, FOLLOW THESE INSTRUCTIONS:**

Use the [\*Affidavit of Personal Service \(SOP102\)\*](#)

<b>YOU:</b>	1. Fill in the caption the same as you did for the <i>Responsive Notice of Motion and Motion</i> (see Section A, above).
<b>THE SERVER:</b>	1. Write the server's name and date of birth.
	2. Write the date the server handed the papers to the other party.
	3. List all of the papers the servers handed to the other party ( <i>Responsive Notice of Motion and Motion, Affidavit in Support of Responsive Motion</i> , etc.).
	4. Write the other party's name.
	5. Write the location (where) the server handed the papers to the other party.
	6. Write in the server's name, address, and telephone number. Server should sign and date the form, and list what county and state they are in when they sign the <i>Affidavit of Personal Service</i> .

After the server signs the *Affidavit of Personal Service* (SOP102), make one copy for your records. The original is filed with the court as part of Step 6 below.

**IF THE PAPERS WERE SERVED BY MAIL, FOLLOW THESE INSTRUCTIONS:**

Use the [\*Affidavit of Service by Mail \(SOP104\)\*](#).

<b>YOU:</b>	1. Fill in the caption the same as you did for the <i>Responsive Notice of Motion and Motion</i> (see Section A, above).
<b>THE SERVER:</b>	1. Write the server's name and date of birth.
	2. Write the date the server mailed the papers to the other party.
	3. List all of the papers the servers handed to the other party ( <i>Responsive Notice of Motion and Motion, Affidavit in Support of Responsive Motion</i> , etc.).
	4. Write the other party's name.

	5. Write the other party's address. Note: the address is broken up. The first line is for the street address ( <i>123 Main St.</i> ); the second line is for the city ( <i>Mantorville</i> ); then state; then zip code.
	6. Write the city and state the server was in when they mailed the papers.
	7. Write in the server's name, address, and telephone number. Server should sign and date the form, and list what county and state they are in when they sign the <i>Affidavit of Service by Mail</i> .

After the server signs the *Affidavit of Service by Mail*, make one copy for your records. The original is filed with the court as part of Step 6.

## Step 6

### File with Court Administration

You will need to file the following forms with Court Administration:

- Original *Responsive Notice of Motion and Motion*;
- Original *Affidavit in Support of Responsive Motion* (including any attachments); and
- Original *Affidavit of Personal Service* **or** *Affidavit of Service by Mail* (one *Affidavit of Service* for each party other than yourself).

There will be a [motion fee](#) due when you file your paperwork. You can make checks payable to “District Court.”

If you cannot afford to pay the motion fee, you can ask for a fee waiver by completing the forms in the [In Forma Pauperis/IFP](#) packet of forms (found online at [www.mncourts.gov/forms](http://www.mncourts.gov/forms)). If a judge does not sign the fee waiver order, then you must pay the motion fee before Court Administration can process your forms.

## Step 7

### Go to Your Hearing

To prepare for your hearing, it is a good idea to look at the court rules that apply to civil cases. You can find [links to these rules](#) online. You could also visit a [law library](#) to read the court rules.

You must go to court on the date set for the hearing. It is important to be on time. If you are even a few minutes late, the judicial officer may dismiss your motion.

Bring your copies of the paperwork with you to the hearing. If you are unsure how to prepare for the hearing, or what evidence you should bring, you should [get legal advice](#) before your court date.